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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,825	12/11/2000	Kulvir S. Bhogal	AUS920000207US1	5525

7590

04/08/2004

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EXAMINER

DUONG, THOMAS

ART UNIT	PAPER NUMBER
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2143

5

DATE MAILED: 04/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/734,825

Applicant(s)

BHOGAL ET AL.

Examiner

Thomas Duong

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/3/5/01</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because of the following informality:

- *"the the"* (line 8, abstract)

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12, 17-20 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrick, Jr. et al. (US006006260A) and in view of Lai et al. (US006600737B1).
4. With regard to claims 1, 17-20 and 25, Barrick reference discloses,
 - *upon a browser event, issuing a request to a benchmarking server; returning given data from a session between the benchmarking server and the browser;* (Barrick, col.2, lines 3-28, lines 36-47; col.7, lines 9-36, lines 46-67; fig.4A; fig.6)
 - *passing the connection speed data in a client request to a web server.* (Barrick, col.2, lines 29-35, lines 47-53; col.7, lines 46-67; fig.4A; fig.6)

However, Barrick reference does not explicitly disclose,

- *using the given data to calculate connection speed data; and*

Lai teaches,

- *using the given data to calculate connection speed data; and* (Lai, col.1, lines 43-67; col.4, lines 6-30; fig.3)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Lai reference with Barrick reference to enhance the network by determining the available bandwidth connection of the user. This further allows the system to configure the transmission of user requested data appropriately.

5. With regard to claims 2-5 and 12, Barrick and Lai references disclose the invention substantially as claimed,

See *claim 1* rejection as detailed above.

Furthermore, Barrick reference discloses,

- *wherein the connection speed data is passed in a header of the client request.*
(Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)
- *further including defining a variable to be given the value of the connection speed.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)

6. With regard to claims 6-11, Barrick and Lai references disclose the invention substantially as claimed,

See *claim 5* rejection as detailed above.

Furthermore, Barrick reference discloses,

- *further including generating a start time stamp of when the given data is sent.*
(Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)
- *wherein the start and end time stamps are used to calculate connection speed data.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)

7. Claims 13-16, 21-24 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrick, Jr. et al. (US006006260A), in view of Lai et al. (US006600737B1) and further in view of Chaddha (US006345293B1).
8. With regard to claim 13, 21-24 and 26-29, Barrick and Lai reference discloses the invention substantially as claimed,
- *upon a browser event, issuing a request to a benchmarking server; returning given data from a session between the benchmarking server and the browser;* (Barrick, col.2, lines 3-28, lines 36-47, lines 54-65; col.7, lines 9-36, lines 46-67; fig.4A; fig.6)
 - *passing the connection speed data in a client request to a web server.* (Barrick, col.2, lines 29-35, lines 47-53; col.7, lines 46-67; fig.4A; fig.6)
 - *using the given data to calculate connection speed data; and* (Lai, col.1, lines 43-67; col.4, lines 6-30; fig.3)

However, Barrick reference does not explicitly disclose,

- *returning a given page conforming to the connection speed data by the server.*
- Lai teaches,
- *returning a given page conforming to the connection speed data by the server.*
- (Chaddha, col.7, lines 10-28; fig.5)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Chaddha reference with Barrick and Lai references to efficiently utilizing the network resources while distribute personalized information or data over a computer network.

9. With regard to claims 14-16, Barrick, Lai and Chaddha references disclose the invention substantially as claimed,

See *claim 13* rejection as detailed above.

Furthermore, Barrick reference discloses,

- *wherein the connection speed data is passed in a cookie associated with a client request.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)
- *wherein the given data includes a time stamp of when the given data is sent.*
(Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)
- *wherein the passing of the connection speed data in a client request further includes passing a variable having the value of the connection speed.* (Barrick, col.7, lines 46-67; col.8, line 62 – col.9, line 23; fig.4A; fig.5-7)

Conclusion


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
 - Rosenberg et al. (US005740430)
 - Killian (US006438592B1)
 - Ramanathan et al. (US005913041A)
 - Wagle (US005790425)
 - Chaddha (US006122658A)
 - Dedrick (US005717923)
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 703/305-1886. The examiner can normally be reached on M-F 7:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703/308-5221. The fax phone numbers for the organization where this application or proceeding is assigned are 703/872-9306 for regular communications and 703/872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-3900.

Thomas Duong (AU2143)

April 5, 2004


DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100